

Bureau of Alcohol, Tobacco, Firearms, and Explosives, Justice

§ 478.34

shipped, transported, possessed, or received in the official's or visitor's official capacity, except if the visitor is a private individual who does not have an official capacity; or

(D) A foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business,

(6) Has been discharged from the Armed Forces under dishonorable conditions,

(7) Having been a citizen of the United States, has renounced citizenship,

(8) Is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child: *Provided*, That the provisions of this paragraph shall only apply to a court order that—

(i) Was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(ii)(A) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(B) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury, or

(9) Has been convicted of a misdemeanor crime of domestic violence.

(e) The actual notice required by paragraphs (a)(8)(i) and (d)(8)(i) of this section is notice expressly and actually given, and brought home to the party directly, including service of process personally served on the party and service by mail. Actual notice also includes proof of facts and circumstances that raise the inference that the party received notice including, but not limited to, proof that notice was left at the party's dwelling house or usual place of abode with some person of suitable age and discretion residing therein; or proof that the party signed a return receipt for a hearing notice which had been mailed to the party. It

does not include notice published in a newspaper.

(f) Pursuant to 18 U.S.C. 922(y)(3), any individual who has been admitted to the United States under a non-immigrant visa may receive a waiver from the prohibition contained in paragraph (a)(5)(ii) of this section if the Attorney General approves a petition for the waiver.

[T.D. ATF-270, 53 FR 10493, Mar. 31, 1988, as amended by T.D. ATF-363, 60 FR 17451, Apr. 6, 1995; T.D. ATF-391, 62 FR 34639, June 27, 1997; T.D. ATF-401, 63 FR 35522, June 30, 1998; T.D. ATF-471, 67 FR 5425, Feb. 5, 2002; T.D. ATF-24F, 77 FR 33629, June 7, 2012]

§ 478.33 Stolen firearms and ammunition.

No person shall transport or ship in interstate or foreign commerce any stolen firearm or stolen ammunition knowing or having reasonable cause to believe that the firearm or ammunition was stolen, and no person shall receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

[T.D. ATF-363, 60 FR 17451, Apr. 6, 1995]

§ 478.33a Theft of firearms.

No person shall steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

[T.D. ATF-354, 59 FR 7112, Feb. 14, 1994]

§ 478.34 Removed, obliterated, or altered serial number.

No person shall knowingly transport, ship, or receive in interstate or foreign commerce any firearm which has had the importer's or manufacturer's serial